

1 JOHN M. McCOY III, Cal. Bar No. 166244
Email: mccoyj@sec.gov
2 JOHN B. BULGOZDY, Cal. Bar No. 219897
Email: bulgozdyj@sec.gov
3 SUSAN F. HANNAN, Cal. Bar No. 97604
Email: hannans@sec.gov

4 Attorneys for Plaintiff
5 Securities and Exchange Commission
Rosalind R. Tyson, Regional Director
6 5670 Wilshire Boulevard, 11th Floor
Los Angeles, California 90036
7 Telephone: (323) 965-3998
Facsimile: (323) 965-3908
8

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **SOUTHERN DIVISION**

12 SECURITIES AND EXCHANGE
13 COMMISSION,

14 Plaintiff,

15 v.

16 JEANNE M. ROWZEE; JAMES R.
HALSTEAD; and ROBERT T. HARVEY;

17 Defendants.
18

Case No. SACV 08-1025 DOC (ANx)

**FINAL JUDGMENT AS TO
DEFENDANT ROBERT T.
HARVEY**

19
20
21 The Securities and Exchange Commission having filed a Complaint and
22 Defendant Robert T. Harvey having entered a general appearance; consented to the
23 Court's jurisdiction over Defendant and the subject matter of this action; consented
24 to entry of this Final Judgment without admitting or denying the allegations of the
25 Complaint (except as to jurisdiction); waived findings of fact and conclusions of
26 law; and waived any right to appeal from this Final Judgment:
27
28

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act"), 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a

1 material fact or any omission of a material fact necessary in order to
2 make the statements made, in light of the circumstances under which
3 they were made, not misleading; or

- 4 (c) to engage in any transaction, practice, or course of business which
5 operates or would operate as a fraud or deceit upon the purchaser.

6 **III.**

7 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
8 that Defendant and Defendant's agents, servants, employees, attorneys, and all
9 persons in active concert or participation with them who receive actual notice of
10 this Final Judgment by personal service or otherwise are permanently restrained
11 and enjoined from violating Section 5 of the Securities Act, 15 U.S.C. § 77e, by,
12 directly or indirectly, in the absence of any applicable exemption:

- 13 (a) Unless a registration statement is in effect as to a security, making use
14 of any means or instruments of transportation or communication in
15 interstate commerce or of the mails to sell such security through the use
16 or medium of any prospectus or otherwise;
- 17 (b) Unless a registration statement is in effect as to a security, carrying or
18 causing to be carried through the mails or in interstate commerce, by
19 any means or instruments of transportation, any such security for the
20 purpose of sale or for delivery after sale; or
- 21 (c) Making use of any means or instruments of transportation or
22 communication in interstate commerce or of the mails to offer to sell or
23 offer to buy through the use or medium of any prospectus or otherwise
24 any security, unless a registration statement has been filed with the
25 Commission as to such security, or while the registration statement is
26 the subject of a refusal order or stop order or (prior to the effective date
27 of the registration statement) any public proceeding or examination
28 under Section 8 of the Securities Act, 15 U.S.C. § 77h.

1 **IV.**

2 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
3 that Defendant and Defendant's agents, servants, employees, attorneys, and all
4 persons in active concert or participation with them who receive actual notice of
5 this Final Judgment by personal service or otherwise are permanently restrained
6 and enjoined from violating, directly or indirectly, Sections 206(1) and 206(2) of
7 the Investment Advisers Act of 1940 ("Advisers Act"), 15 U.S.C. § 80b-6(1) and §
8 80b-6(2). by use of the mails or any means or instrumentality of interstate
9 commerce, directly or indirectly:

10 (a) to employ any device, scheme, or artifice to defraud any client or
11 prospective client; or

12 (b) to engage in any transaction, practice, or course of business which
13 operates as a fraud or deceit upon any client or prospective client.

14 **V.**

15 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
16 that Defendant is liable for disgorgement of \$2,300,000.00, representing ill-gotten
17 gains as a result of the conduct alleged in the Complaint, together with
18 prejudgment interest thereon in the amount of \$79,447.43, for a total of
19 \$2,379,447.43. Based on Defendant's sworn representations in his Statement of
20 Financial Condition dated April 26, 2010, and other documents and information
21 submitted to the Commission, however, the Court is not ordering Defendant to pay
22 a civil penalty and payment of disgorgement and pre-judgment interest thereon is
23 waived. The determination not to impose a civil penalty and to waive payment of
24 the disgorgement and pre-judgment interest is contingent upon the accuracy and
25 completeness of Defendant's Statement of Financial Condition. If at any time
26 following the entry of this Final Judgment the Commission obtains information
27 indicating that Defendant's representations to the Commission concerning his
28 assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate, or

1 incomplete in any material respect as of the time such representations were made,
2 the Commission may, at its sole discretion and without prior notice to Defendant,
3 petition the Court for an order requiring Defendant to pay the unpaid portion of the
4 disgorgement, pre-judgment and post-judgment interest thereon, and the maximum
5 civil penalty allowable under the law. In connection with any such petition, the
6 only issue shall be whether the financial information provided by Defendant was
7 fraudulent, misleading, inaccurate, or incomplete in any material respect as of the
8 time such representations were made. In its petition, the Commission may move
9 this Court to consider all available remedies, including, but not limited to, ordering
10 Defendant to pay funds or assets, directing the forfeiture of any assets, or sanctions
11 for contempt of this Final Judgment. The Commission may also request additional
12 discovery. Defendant may not, by way of defense to such petition: (1) challenge
13 the validity of the Consent or this Final Judgment; (2) contest the allegations in the
14 Complaint filed by the Commission; (3) assert that payment of disgorgement, pre-
15 judgment and post-judgment interest or a civil penalty should not be ordered; (4)
16 contest the amount of disgorgement and pre-judgment and post-judgment interest;
17 (5) contest the imposition of the maximum civil penalty allowable under the law;
18 or (6) assert any defense to liability or remedy, including, but not limited to, any
19 statute of limitations defense.

20 VI.

21 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
22 that the Consent is incorporated herein with the same force and effect as if fully set
23 forth herein, and that Defendant shall comply with all of the undertakings and
24 agreements set forth therein.

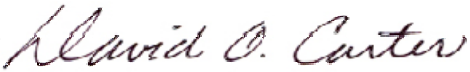
25 VII.

26 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
27 that this Court shall retain jurisdiction of this matter for the purposes of enforcing
28 the terms of this Final Judgment.

VIII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: July 29, 2010



THE HON. DAVID O. CARTER
UNITED STATES DISTRICT JUDGE